

BEFORE THE DEPARTMENT OF TRANSPORTATION
OF THE STATE OF MONTANA

In the matter of the adoption of the)	AMENDED NOTICE OF PROPOSED
New Rule I pertaining to the Motor)	ADOPTION AND AMENDMENT
Carrier Services vehicles authorized)	
to bypass weigh stations and in the)	
matter of amendment of ARM)	NO PUBLIC HEARING
18.8.101 and 18.8.1301, pertaining to)	CONTEMPLATED
Motor Carrier Services definitions and)	
compliance with weigh station bypass)	

TO: All Concerned Persons

1. On September 6, 2022, the Department of Transportation proposes to adopt and amend the above-stated rules.

2. On June 10, 2022, the Department published MAR Notice No. 18-189 pertaining to the proposed adoption and amendment of the above-stated rules at page 859 of the 2022 Montana Administrative Register, Issue Number 11. The department inadvertently failed to notify the appropriate interim committee concurrently with filing the proposal with the Secretary of State (2-4-302(2)(a), MCA) or send notice to interested persons within 3 days of publication (2-4-302(2)(b), MCA). The Department has subsequently notified the appropriate interim committee and will send notice to interested persons within 3 days of publication. The Department is extending the comment period in this notice, but the proposed amendments has not changed since the initial notice.

3. The Department of Transportation will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact Department of Transportation no later than 5:00 p.m. on August 26, 2022, to advise us of the nature of the accommodation that you need. Please contact Russ Christoferson, Department of Transportation, Motor Carrier Services Division, P.O. Box 201001, Helena, Montana, 59620-1001; telephone (406) 444-0454; fax (406) 444-9263; TTY Service (800) 335-7592 or through the Montana Relay Service at 711; or e-mail rchristoferson@mt.gov.

4. The rule as proposed to be adopted provide as follows:

NEW RULE I VEHICLES AUTHORIZED TO BYPASS WEIGH STATIONS

(1) The requirements contained in 61-10-141, MCA, and 18.8.1301, ARM, for vehicles stopping at stations do not apply to:

(a) Vehicles being operated by carriers enrolled in electronic weigh station bypass programs. In-cab signals at equipped weigh station sites shall be followed, subject to jurisdictional bypass restrictions;

- (b) Vehicles receiving notification indicating a bypass from electronic signs on the mainline or through other means of communication;
- (c) Vehicles owned and operated by the Federal Government, a State, any subdivision of a State, or a Tribal Government;
- (d) Montana based school buses operating to or from school, or a school sponsored activity;
- (e) Scheduled transit system buses travelling on a regular route;
- (f) Super-loads operating under a special permit which are unable to enter a weigh station due to size or safety concerns. Carriers must obtain prior authorization from the Division Administrator or designee;
- (g) A weigh station bypass authorization may be obtained from the Division Administrator or designee if they meet the following criteria:
 - (i) empty vehicles making multiple trips, such as logging vehicles and harvesting support vehicles; or
 - (ii) vehicles operating to, from, or within, a construction project.
- (h) A weigh station bypass authorization may be obtained from the Division Administrator or designee as determined on a case-by-case basis.
- (2) Carriers with weigh station bypass authorization are subject to roadside enforcement stops.
- (3) Authorized bypasses may be rescinded at the discretion of the Department.

AUTH: 61-10-141, 61-10-155, MCA

IMP: 61-10-141, MCA

REASON: The 2021 Legislature enacted House Bill 77, Ch. 89, L.2021, an act generally revising the laws related to Motor Carrier Services that included among other revisions, expanding the types of vehicles that may bypass weigh stations. As amended by HB77, 61-10-141, MCA, allows the department to exempt types of vehicles by rule. The proposed new rule is necessary to implement the bill and identify which vehicles may bypass an open weigh station. The proposed New Rule I will create efficiencies for the traveling public by allowing those vehicles which are prescreened, not regulated, or otherwise exempted, to bypass open weigh stations.

5. The rules as proposed to be amended provide as follows:

18.8.101 DEFINITIONS

The following definitions shall apply throughout this chapter.

(1) through (8) remain the same.

(9) “Multiple trips” means travelling by a weighing location more than once on either a daily, weekly, or monthly basis as approved by the department.

(9) through (12) remain the same but renumbered (10) through (13).

(14) “Regular route” means the scheduled transportation of passengers between designated points, over designated routes, and under time schedules that provide a regularity of service.

(13) remains the same but is renumbered (15).

(16) “School bus” has the definition set forth in 20-10-101, MCA.

(14) through (16) remain the same but renumbered (17) through (19).

AUTH: 61-3-710, 61-10-141, 61-10-155, MCA

IMP: 61-3-708, 61-3-709, 61-10-107, 61-10-121, 61-10-122, 61-10-123, 61-10-124, 61-10-125, 61-10-141, AND 61-10-201, MCA

REASON: The proposed amendment is necessary to include definitions for multiple trips and regular route for the purposes of implementing 61-10-141, MCA and New Rule I implementing that statute.

18.8.1301 COMPLIANCE WITH ~~WEIGHING LOCATION~~ WEIGH STATION SIGNS JURISDICTIONAL BYPASS RESTRICTIONS

~~(1) Drivers of vehicles~~ Vehicles meeting the requirements of 61-10-141(1) and (3), MCA, are required to stop at all ~~weighing locations~~ weigh stations displaying an open sign unless authorized to bypass within New Rule I.

~~(2) Drivers operating vehicles for~~ Vehicles being operated by carriers enrolled in electronic weigh station bypass programs ~~may follow in cab signals at equipped weigh station sites which signals shall include whether the vehicle must stop,~~ are subject to jurisdictional bypass restrictions.

~~(3) Jurisdictional bypass restrictions require that and~~ regardless of receiving a bypass signal, ~~a driver~~ must enter an open ~~weighing location~~ weigh station when any of the following conditions apply:

(a) ~~overweight (including permitted loads);~~

(b) ~~overwide width exceeding greater than ten 10 feet (including permitted loads);~~

(c) ~~overheight greater than~~ height exceeding 15 feet 6 inches ~~(including permitted loads);~~

(d) ~~overlength greater than~~ length exceeding 440 120 feet ~~(including permitted loads);~~

(e) oversize in excess of legal dimensions as outlined in 61-10-102, 61-10-103, and 61-10-104, MCA, without a valid permit.

~~(4)~~ (3) A violation of this rule is punishable as provided by law.

AUTH: 61-10-141, 61-10-155, MCA

IMP: 61-10-141, MCA

REASON: The proposed amendment to (1) is necessary because all of the vehicles that may bypass scales will be identified in proposed New Rule I. The proposed amendments to (2) and (3) are necessary to make the rule easier to read and make the rule internally consistent with other administrative rules.

6. Concerned persons may submit their data, views, or arguments concerning the proposed action in writing to: Russ Christoferson, Department of Transportation, Motor Carrier Services Division, P.O. Box 201001, Helena Montana, 59620-1001; telephone (406) 444-0454; fax (406) 444-9263; or e-mail rchristoferson@mt.gov, and must be received no later than 5:00 p.m., September 2, 2022.

7. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Russ Christoferson at the above address no later than 5:00 p.m., September 2, 2022.

8. If the agency receives requests for a public hearing on the proposed action from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed action; from the appropriate administrative rule review committee of the Legislature; from a governmental subdivision or agency; or from an association having not less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 904 persons based on the current active 9040 US DOT accounts in Montana.

9. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in paragraph 6 above or may be made by completing a request form at any rules hearing held by the department.

10. An electronic copy of this proposal notice is available through the Department of Transportation website at www.mdt.mt.gov.

11. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by email and U.S. mail on February 17, 2022.

12. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

13. With regard to the requirements of 2-15-142, MCA, the department has determined that the amendment of the above-referenced rules will not have direct tribal implications.

DocuSigned by:

Valerie Balukas

Valerie A. Balukas
Alternate Rule Reviewer

DocuSigned by:

Malcolm "Mack" Long

Malcolm "Mack" Long
Director Department of Transportation

Certified to the Secretary of State July 26, 2022.